



General Assembly

February Session, 2012

Raised Bill No. 455

LCO No. 2643

* _____SB00455JUD__040212_____*

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of subsection (d) of section 4-61dd of the
2 2012 supplement to the general statutes is repealed and the following
3 is substituted in lieu thereof (*Effective October 1, 2012*):

4 (2) (A) Not later than ninety days after learning of the specific
5 incident giving rise to a claim that a personnel action has been
6 threatened or has occurred in violation of subdivision (1) of this
7 subsection, a state or quasi-public agency employee, an employee of a
8 large state contractor or the employee's attorney may file a complaint
9 against the state agency, quasi-public agency, large state contractor or
10 appointing authority concerning such personnel action with the Chief
11 Human Rights Referee designated under section 46a-57. Upon receipt
12 of such complaint, the Chief Human Rights Referee shall cause a copy
13 of the complaint to be hand-delivered or mailed to the supervising
14 attorney of the Commission on Human Rights and Opportunities.
15 Such complaint may be amended if an additional incident giving rise
16 to a claim under this subdivision occurs subsequent to the filing of the

17 original complaint. The Chief Human Rights Referee shall assign the
 18 complaint to a human rights referee appointed under section 46a-57,
 19 who shall conduct a hearing and issue a decision concerning whether
 20 the officer or employee taking or threatening to take the personnel
 21 action violated any provision of this section. The human rights referee
 22 may order a state agency or quasi-public agency to produce (i) an
 23 employee of such agency or quasi-public agency to testify as a witness
 24 in any proceeding under this subdivision, or (ii) books, papers or other
 25 documents relevant to the complaint, without issuing a subpoena. If
 26 such agency or quasi-public agency fails to produce such witness,
 27 books, papers or documents, not later than thirty days after such order,
 28 the human rights referee may consider such failure as supporting
 29 evidence for the complainant. If, after the hearing, the human rights
 30 referee finds a violation, the referee may award the aggrieved
 31 employee reinstatement to the employee's former position, back pay
 32 and reestablishment of any employee benefits for which the employee
 33 would otherwise have been eligible if such violation had not occurred,
 34 reasonable attorneys' fees, and any other damages. For the purposes of
 35 this subsection, such human rights referee shall act as an independent
 36 hearing officer. The decision of a human rights referee under this
 37 subsection may be appealed by any person who was a party at such
 38 hearing or by the Commission on Human Rights and Opportunities, in
 39 accordance with the provisions of section 4-183.

40 (B) The Chief Human Rights Referee shall adopt regulations, in
 41 accordance with the provisions of chapter 54, establishing the
 42 procedure for filing complaints and noticing and conducting hearings
 43 under subparagraph (A) of this subdivision.

44 Sec. 2. Subdivision (4) of section 46a-51 of the 2012 supplement to
 45 the general statutes is repealed and the following is substituted in lieu
 46 thereof (*Effective October 1, 2012*):

47 (4) "Commissioner" means [a] an appointed member of the
 48 commission;

49 Sec. 3. Section 46a-52 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2012*):

51 (a) The commission shall consist of [nine persons] a nine-member
52 governing board. On and after October 1, 2000, such [persons]
53 members shall be appointed with the advice and consent of both
54 houses of the General Assembly. (1) On or before July 15, 1990, the
55 Governor shall appoint five members of the commission, three of
56 whom shall serve for terms of five years and two of whom shall serve
57 for terms of three years. Upon the expiration of such terms, and
58 thereafter, the Governor shall appoint either two or three members, as
59 appropriate, to serve for terms of five years. On or before July 14, 1990,
60 the president pro tempore of the Senate, the minority leader of the
61 Senate, the speaker of the House of Representatives and the minority
62 leader of the House of Representatives shall each appoint one member
63 to serve for a term of three years. Upon the expiration of such terms,
64 and thereafter, members so appointed shall serve for terms of three
65 years. (2) If any vacancy occurs, the appointing authority making the
66 initial appointment shall appoint a [person] member to serve for the
67 remainder of the unexpired term. The Governor shall select one of the
68 members of the commission to serve as chairperson for a term of one
69 year. The commission shall meet at least once during each two-month
70 period and at such other times as the chairperson deems necessary.
71 Special meetings shall be held on the request of a majority of the
72 members of the commission after notice in accordance with the
73 provisions of section 1-225.

74 (b) Except as provided in section 46a-57, the members of the
75 commission shall serve without pay, but their reasonable expenses,
76 including educational training expenses and expenses for necessary
77 stenographic and clerical help, shall be paid by the state upon
78 approval of the Commissioner of Administrative Services. Not later
79 than two months after appointment to the commission, each member
80 of the commission shall receive a minimum of [ten] five hours of
81 introductory training prior to voting on any commission matter. Each

82 year following such introductory training, each member shall receive
 83 [five] three hours of follow-up training. Such introductory and follow-
 84 up training shall consist of instruction on the laws governing
 85 discrimination in employment, housing, public accommodation and
 86 credit, affirmative action and the procedures of the commission. Such
 87 training shall be organized by the managing director of the legal
 88 division of the commission. Any member who fails to complete such
 89 training shall not vote on any commission matter. Any member who
 90 fails to comply with such introductory training requirement within six
 91 months of appointment shall be deemed to have resigned from office.
 92 Any member who fails to attend three consecutive meetings or who
 93 fails to attend fifty per cent of all meetings held during any calendar
 94 year shall be deemed to have resigned from office.

95 (c) On or before July 15, 1989, the [commission] commissioners shall
 96 appoint an executive director who shall be the chief executive officer of
 97 the Commission on Human Rights and Opportunities to serve for a
 98 term expiring on July 14, 1990. Upon the expiration of such term and
 99 thereafter, the executive director shall be appointed for a term of four
 100 years. The executive director shall be supervised and annually
 101 evaluated by the [commission] commissioners. The executive director
 102 shall serve at the pleasure of the [commission] commissioners but no
 103 longer than four years from July fifteenth in the year of his or her
 104 appointment unless reappointed pursuant to the provisions of this
 105 subsection. The executive director shall receive an annual salary within
 106 the salary range of a salary group established by the Commissioner of
 107 Administrative Services for the position. The executive director (1)
 108 shall conduct comprehensive planning with respect to the functions of
 109 the commission; (2) shall coordinate the activities of the commission;
 110 and (3) shall cause the administrative organization of the commission
 111 to be examined with a view to promoting economy and efficiency. In
 112 accordance with established procedures, the executive director may
 113 enter into such contractual agreements as may be necessary for the
 114 discharge of the director's duties.

115 (d) The executive director may appoint no more than two deputy
116 directors with the approval of a majority of the members of the
117 commission. The deputy directors shall be supervised by the executive
118 director and shall assist the executive director in the administration of
119 the commission, the effectuation of its statutory responsibilities and
120 such other duties as may be assigned by the executive director. Deputy
121 directors shall serve at the pleasure of the executive director and
122 without tenure. The executive director may remove a deputy director
123 with the approval of a majority of the members of the commission.

124 (e) The commission shall be within the Department of
125 Administrative Services for administrative purposes only.

126 Sec. 4. Section 46a-58 of the 2012 supplement to the general statutes
127 is repealed and the following is substituted in lieu thereof (*Effective*
128 *October 1, 2012*):

129 (a) It shall be a discriminatory practice in violation of this section for
130 any person to subject, or cause to be subjected, any other person to the
131 deprivation of any rights, privileges or immunities, secured or
132 protected by the Constitution or laws of this state or of the United
133 States, on account of religion, national origin, alienage, color, race, sex,
134 age, gender identity or expression, sexual orientation, blindness or
135 physical disability.

136 (b) Any person who intentionally desecrates any public property,
137 monument or structure, or any religious object, symbol or house of
138 religious worship, or any cemetery, or any private structure not owned
139 by such person, shall be in violation of subsection (a) of this section.
140 For the purposes of this subsection, "desecrate" means to mar, deface
141 or damage as a demonstration of irreverence or contempt.

142 (c) Any person who places a burning cross or a simulation thereof
143 on any public property, or on any private property without the written
144 consent of the owner, shall be in violation of subsection (a) of this
145 section.

146 (d) Any person who places a noose or a simulation thereof on any
147 public property, or on any private property without the written
148 consent of the owner, and with intent to intimidate or harass any other
149 person on account of religion, national origin, alienage, color, race, sex,
150 sexual orientation, blindness or physical disability, shall be in violation
151 of subsection (a) of this section.

152 (e) Any person who violates any provision of this section shall be
153 guilty of a class A misdemeanor, except that if property is damaged as
154 a consequence of such violation in an amount in excess of one
155 thousand dollars, such person shall be guilty of a class D felony.

156 Sec. 5. Section 46a-89 of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective October 1, 2012*):

158 (a) (1) Whenever a complaint is filed with or by the commission
159 pursuant to section 46a-82 alleging a violation of section 46a-60 or 46a-
160 81c, and [a commissioner] the commission believes, upon review and
161 the recommendation of the investigator assigned, that equitable relief
162 is required to prevent irreparable harm to the complainant, the
163 [commissioner] commission may bring a petition in equity in the
164 superior court for the judicial district in which the discriminatory
165 practice which is the subject of the complaint occurred or the judicial
166 district in which the respondent resides, provided this subdivision
167 shall not apply to complaints against employers with less than fifty
168 employees.

169 (2) The petition shall seek appropriate temporary injunctive relief
170 against the respondent pending final disposition of the complaint
171 pursuant to the procedures set forth in this chapter. The injunctive
172 relief may include an order temporarily restraining the respondent
173 from doing any act that would render ineffectual any order a presiding
174 officer may render with respect to the complaint.

175 (3) Upon service on the respondent of notice pursuant to section
176 46a-89a, the respondent shall be temporarily restrained from taking

177 any action that would render ineffectual the temporary injunctive
178 relief prayed for in the petition, provided nothing in this section shall
179 be construed to prevent the respondent from having any employment
180 duties, enjoined under this section and section 46a-89a, from being
181 carried out by another employee and the notice shall so provide.

182 (b) (1) Whenever a complaint filed pursuant to section 46a-82 alleges
183 a violation of section 46a-64, 46a-64c, 46a-81d or 46a-81e, and [a
184 commissioner] the commission believes that injunctive relief is
185 required or that the imposition of punitive damages or a civil penalty
186 would be appropriate, the commission may bring a petition in the
187 superior court for the judicial district in which the discriminatory
188 practice which is the subject of the complaint occurred or the judicial
189 district in which the respondent resides.

190 (2) The petition shall seek: (A) Appropriate injunctive relief,
191 including temporary or permanent orders or decrees restraining and
192 enjoining the respondent from selling or renting to anyone other than
193 the complainant or otherwise making unavailable to the complainant
194 any dwelling or commercial property with respect to which the
195 complaint is made, pending the final determination of such complaint
196 by the commission or such petition by the court; (B) an award of
197 damages based on the remedies available under subsection (c) of
198 section 46a-86; (C) an award of punitive damages payable to the
199 complainant, not to exceed fifty thousand dollars; (D) a civil penalty
200 payable to the state against the respondent to vindicate the public
201 interest: (i) In an amount not exceeding ten thousand dollars if the
202 respondent has not been adjudged to have committed any prior
203 discriminatory housing practice; (ii) in an amount not exceeding
204 twenty-five thousand dollars if the respondent has been adjudged to
205 have committed one other discriminatory housing practice during the
206 five-year period prior to the date of the filing of this complaint; and
207 (iii) in an amount not exceeding fifty thousand dollars if the
208 respondent has been adjudged to have committed two or more
209 discriminatory housing practices during the seven-year period prior to

210 the date of the filing of the complaint; except that if the acts
 211 constituting the discriminatory housing practice that is the object of the
 212 complaint are committed by the same natural person who has been
 213 previously adjudged to have committed acts constituting a
 214 discriminatory housing practice, then the civil penalties set forth in
 215 clauses (ii) and (iii) of this subparagraph may be imposed without
 216 regard to the period of time within which any subsequent
 217 discriminatory housing practice occurred; or (E) two or more of such
 218 remedies.

219 (3) Upon service on the respondent of notice pursuant to section
 220 46a-89a, the respondent shall be temporarily restrained from selling or
 221 renting the dwelling or commercial property which is the subject of the
 222 complaint to anyone other than the complainant, or from otherwise
 223 making such dwelling or commercial property unavailable to the
 224 complainant, until the court or judge has decided the petition for
 225 temporary injunctive relief and the notice shall so provide.

226 Sec. 6. Section 46a-68d of the general statutes is repealed and the
 227 following is substituted in lieu thereof (*Effective October 1, 2012*):

228 In addition to the provisions of section 4a-60, as amended by this
 229 act, every public works contract subject to the provisions of part II of
 230 chapter 60 shall also be subject to the provisions of this section. After [a
 231 bid has been accepted but before] a public works contract is awarded
 232 but prior to completion of the acts encompassed by such contract, the
 233 successful bidder shall file and have approved by the commission an
 234 affirmative action plan. The commission may provide for conditional
 235 acceptance of an affirmative action plan provided written assurances
 236 are given by the contractor that it will amend its plan to conform to
 237 affirmative action requirements. The state shall withhold [two] five per
 238 cent of the total contract price [per month from any payment made to
 239 such contractor] until such time as the contractor has developed an
 240 affirmative action plan, and received the approval of the commission.
 241 Notwithstanding the provisions of this section, a contractor subject to
 242 the provisions of this section may file a plan in advance of or at the

243 same time as its bid. The commission shall review [plans] a plan
 244 submitted pursuant to this section within sixty days of receipt and
 245 either approve, approve with conditions or reject such plan. When the
 246 commission approves an affirmative action plan pursuant to this
 247 section, it shall issue a certificate of compliance to the contractor as
 248 provided in section 46a-68c.

249 Sec. 7. Section 4a-60 of the 2012 supplement to the general statutes is
 250 repealed and the following is substituted in lieu thereof (*Effective*
 251 *October 1, 2012*):

252 (a) Every contract to which the state or any political subdivision of
 253 the state [other than a municipality] is a party shall contain the
 254 following provisions:

255 (1) The contractor agrees and warrants that in the performance of
 256 the contract such contractor will not discriminate or permit
 257 discrimination against any person or group of persons on the grounds
 258 of race, color, religious creed, age, marital status, national origin,
 259 ancestry, sex, gender identity or expression, intellectual disability,
 260 mental disability or physical disability, including, but not limited to,
 261 blindness, unless it is shown by such contractor that such disability
 262 prevents performance of the work involved, in any manner prohibited
 263 by the laws of the United States or of the state of Connecticut; and the
 264 contractor further agrees to take affirmative action to insure that
 265 applicants with job-related qualifications are employed and that
 266 employees are treated when employed without regard to their race,
 267 color, religious creed, age, marital status, national origin, ancestry, sex,
 268 gender identity or expression, intellectual disability, mental disability
 269 or physical disability, including, but not limited to, blindness, unless it
 270 is shown by such contractor that such disability prevents performance
 271 of the work involved;

272 (2) The contractor agrees, in all solicitations or advertisements for
 273 employees placed by or on behalf of the contractor, to state that it is an
 274 "affirmative action-equal opportunity employer" in accordance with

275 regulations adopted by the commission;

276 (3) The contractor agrees to provide each labor union or
277 representative of workers with which such contractor has a collective
278 bargaining agreement or other contract or understanding and each
279 vendor with which such contractor has a contract or understanding, a
280 notice to be provided by the commission advising the labor union or
281 workers' representative of the contractor's commitments under this
282 section, and to post copies of the notice in conspicuous places available
283 to employees and applicants for employment;

284 (4) The contractor agrees to comply with each provision of this
285 section and sections 46a-68e and 46a-68f and with each regulation or
286 relevant order issued by said commission pursuant to sections 46a-56,
287 46a-68e and 46a-68f; and

288 (5) The contractor agrees to provide the Commission on Human
289 Rights and Opportunities with such information requested by the
290 commission, and permit access to pertinent books, records and
291 accounts, concerning the employment practices and procedures of the
292 contractor as relate to the provisions of this section and section 46a-56.

293 (b) If the contract is a public works contract, the contractor agrees
294 and warrants that he will make good faith efforts to employ minority
295 business enterprises as subcontractors and suppliers of materials on
296 such public works project.

297 (c) (1) Any contractor who has one or more contracts with the state
298 or a political subdivision of the state that is valued at less than fifty
299 thousand dollars for each year of the contract shall provide the state or
300 such political subdivision of the state with a written or electronic
301 representation that complies with the nondiscrimination agreement
302 and warranty under subdivision (1) of subsection (a) of this section,
303 provided if there is any change in such representation, the contractor
304 shall provide the updated representation to the state or such political
305 subdivision not later than thirty days after such change.

306 (2) Any contractor who has one or more contracts with the state or a
307 political subdivision of the state that is valued at fifty thousand dollars
308 or more for any year of the contract shall provide the state or such
309 political subdivision of the state with any one of the following:

310 (A) Documentation in the form of a company or corporate policy
311 adopted by resolution of the board of directors, shareholders,
312 managers, members or other governing body of such contractor that
313 complies with the nondiscrimination agreement and warranty under
314 subdivision (1) of subsection (a) of this section;

315 (B) Documentation in the form of a company or corporate policy
316 adopted by a prior resolution of the board of directors, shareholders,
317 managers, members or other governing body of such contractor if (i)
318 the prior resolution is certified by a duly authorized corporate officer
319 of such contractor to be in effect on the date the documentation is
320 submitted, and (ii) the head of the agency of the state or such political
321 subdivision, or a designee, certifies that the prior resolution complies
322 with the nondiscrimination agreement and warranty under
323 subdivision (1) of subsection (a) of this section; or

324 (C) Documentation in the form of an affidavit signed under penalty
325 of false statement by a chief executive officer, president, chairperson or
326 other corporate officer duly authorized to adopt company or corporate
327 policy that certifies that the company or corporate policy of the
328 contractor complies with the nondiscrimination agreement and
329 warranty under subdivision (1) of subsection (a) of this section and is
330 in effect on the date the affidavit is signed.

331 (3) Neither the state nor any political subdivision shall award a
332 contract to a contractor who has not provided the representation or
333 documentation required under subdivisions (1) and (2) of this
334 subsection, as applicable. After the initial submission of such
335 representation or documentation, the contractor shall not be required
336 to resubmit such representation or documentation unless there is a
337 change in the information contained in such representation or

338 documentation. If there is any change in the information contained in
 339 the most recently filed representation or updated documentation, the
 340 contractor shall submit an updated representation or documentation,
 341 as applicable, either (A) not later than thirty days after the effective
 342 date of such change, or (B) upon the execution of a new contract with
 343 the state or a political subdivision of the state, whichever is earlier.
 344 Such contractor shall also certify, in accordance with subparagraph (B)
 345 or (C) of subdivision (2) of this subsection, to the state or political
 346 subdivision, not later than fourteen days after the twelve-month
 347 anniversary of the most recently filed representation, documentation
 348 or updated representation or documentation, that the representation
 349 on file with the state or political subdivision is current and accurate.

350 (d) For the purposes of this section, "contract" includes any
 351 extension or modification of the contract, "contractor" includes any
 352 successors or assigns of the contractor, "marital status" means being
 353 single, married as recognized by the state of Connecticut, widowed,
 354 separated or divorced, and "mental disability" means one or more
 355 mental disorders, as defined in the most recent edition of the American
 356 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
 357 Disorders", or a record of or regarding a person as having one or more
 358 such disorders. For the purposes of this section, "contract" does not
 359 include a contract where each contractor is (1) a political subdivision of
 360 the state, [including, but not limited to, a municipality,] (2) a quasi-
 361 public agency, as defined in section 1-120, (3) any other state, as
 362 defined in section 1-267, (4) the federal government, (5) a foreign
 363 government, or (6) an agency of a subdivision, agency, state or
 364 government described in subparagraph (1), (2), (3), (4) or (5) of this
 365 subsection.

366 (e) For the purposes of this section, "minority business enterprise"
 367 means any small contractor or supplier of materials fifty-one per cent
 368 or more of the capital stock, if any, or assets of which is owned by a
 369 person or persons: (1) Who are active in the daily affairs of the
 370 enterprise, (2) who have the power to direct the management and

371 policies of the enterprise, and (3) who are members of a minority, as
 372 such term is defined in subsection (a) of section 32-9n; and "good faith"
 373 means that degree of diligence which a reasonable person would
 374 exercise in the performance of legal duties and obligations. "Good faith
 375 efforts" shall include, but not be limited to, those reasonable initial
 376 efforts necessary to comply with statutory or regulatory requirements
 377 and additional or substituted efforts when it is determined that such
 378 initial efforts will not be sufficient to comply with such requirements.

379 (f) Determination of the contractor's good faith efforts shall include
 380 but shall not be limited to the following factors: The contractor's
 381 employment and subcontracting policies, patterns and practices;
 382 affirmative advertising, recruitment and training; technical assistance
 383 activities and such other reasonable activities or efforts as the
 384 commission may prescribe that are designed to ensure the
 385 participation of minority business enterprises in public works projects.
 386 Employment and subcontracting practices which demonstrate that a
 387 contractor has met or surpassed an awarding authority's set-aside
 388 goals shall be evidence of good faith efforts. Failure by a contractor to
 389 solicit: (1) Bids from more than two subcontractors, vendors or service
 390 providers; (2) subcontractors, vendors or service providers in all
 391 project areas; or (3) less than all types of businesses certified by the
 392 Department of Administrative Services pursuant to section 4a-60g, as
 393 amended by this act, shall not necessarily demonstrate a contractor's
 394 lack of good faith efforts.

395 (g) The contractor shall develop and maintain adequate
 396 documentation, in a manner prescribed by the commission, of its good
 397 faith efforts.

398 (h) The contractor shall include the provisions of subsections (a) and
 399 (b) of this section in every subcontract or purchase order entered into
 400 in order to fulfill any obligation of a contract with the state and such
 401 provisions shall be binding on a subcontractor, vendor or
 402 manufacturer unless exempted by regulations or orders of the
 403 commission. The contractor shall take such action with respect to any

404 such subcontract or purchase order as the commission may direct as a
 405 means of enforcing such provisions including sanctions for
 406 noncompliance in accordance with section 46a-56; provided, if such
 407 contractor becomes involved in, or is threatened with, litigation with a
 408 subcontractor or vendor as a result of such direction by the
 409 commission, the contractor may request the state of Connecticut to
 410 enter into any such litigation or negotiation prior thereto to protect the
 411 interests of the state and the state may so enter.

412 Sec. 8. (NEW) (*Effective October 1, 2012*) The protections afforded to
 413 persons under sections 46a-60, 46a-64c, 46a-66, 46a-70, 46a-71, 46a-72,
 414 46a-75 and 46a-76 of the general statutes shall apply to a veteran as
 415 defined in section 27-103 of the general statutes and to an active
 416 member of the armed forces as defined in section 27-103 of the general
 417 statutes.

418 Sec. 9. Subsections (a) and (b) of section 4a-60a of the 2012
 419 supplement to the general statutes are repealed and the following is
 420 substituted in lieu thereof (*Effective October 1, 2012*):

421 (a) Every contract to which the state or any political subdivision of
 422 the state [other than a municipality] is a party shall contain the
 423 following provisions:

424 (1) The contractor agrees and warrants that in the performance of
 425 the contract such contractor will not discriminate or permit
 426 discrimination against any person or group of persons on the grounds
 427 of sexual orientation, in any manner prohibited by the laws of the
 428 United States or of the state of Connecticut, and that employees are
 429 treated when employed without regard to their sexual orientation;

430 (2) The contractor agrees to provide each labor union or
 431 representative of workers with which such contractor has a collective
 432 bargaining agreement or other contract or understanding and each
 433 vendor with which such contractor has a contract or understanding, a
 434 notice to be provided by the Commission on Human Rights and

435 Opportunities advising the labor union or workers' representative of
436 the contractor's commitments under this section, and to post copies of
437 the notice in conspicuous places available to employees and applicants
438 for employment;

439 (3) The contractor agrees to comply with each provision of this
440 section and with each regulation or relevant order issued by said
441 commission pursuant to section 46a-56; and

442 (4) The contractor agrees to provide the Commission on Human
443 Rights and Opportunities with such information requested by the
444 commission, and permit access to pertinent books, records and
445 accounts, concerning the employment practices and procedures of the
446 contractor which relate to the provisions of this section and section
447 46a-56.

448 (b) (1) Any contractor who has one or more contracts with the state
449 or a political subdivision of the state that is valued at less than fifty
450 thousand dollars for each year of the contract shall provide the state or
451 such political subdivision of the state with a written representation
452 that complies with the nondiscrimination agreement and warranty
453 under subdivision (1) of subsection (a) of this section.

454 (2) Any contractor who has one or more contracts with the state or a
455 political subdivision of the state that is valued at fifty thousand dollars
456 or more for any year of the contract shall provide the state or such
457 political subdivision of the state with any of the following:

458 (A) Documentation in the form of a company or corporate policy
459 adopted by resolution of the board of directors, shareholders,
460 managers, members or other governing body of such contractor that
461 complies with the nondiscrimination agreement and warranty under
462 subdivision (1) of subsection (a) of this section;

463 (B) Documentation in the form of a company or corporate policy
464 adopted by a prior resolution of the board of directors, shareholders,
465 managers, members or other governing body of such contractor if (i)

466 the prior resolution is certified by a duly authorized corporate officer
467 of such contractor to be in effect on the date the documentation is
468 submitted, and (ii) the head of the agency of the state or such political
469 subdivision, or a designee, certifies that the prior resolution complies
470 with the nondiscrimination agreement and warranty under
471 subdivision (1) of subsection (a) of this section; or

472 (C) Documentation in the form of an affidavit signed under penalty
473 of false statement by a chief executive officer, president, chairperson or
474 other corporate officer duly authorized to adopt company or corporate
475 policy that certifies that the company or corporate policy of the
476 contractor complies with the nondiscrimination agreement and
477 warranty under subdivision (1) of subsection (a) of this section and is
478 in effect on the date the affidavit is signed.

479 (3) Neither the state nor any political subdivision shall award a
480 contract to a contractor who has not provided the representation or
481 documentation required under subdivisions (1) and (2) of this
482 subsection, as applicable. After the initial submission of such
483 representation or documentation, the contractor shall not be required
484 to resubmit such representation or documentation unless there is a
485 change in the information contained in such representation or
486 documentation. If there is any change in the information contained in
487 the most recently filed representation or updated documentation, the
488 contractor shall submit an updated representation or documentation,
489 as applicable, either (A) not later than thirty days after the effective
490 date of such change, or (B) upon the execution of a new contract with
491 the state or a political subdivision of the state, whichever is earlier.
492 Such contractor shall also certify, in accordance with subparagraph (B)
493 or (C) of subdivision (2) of this subsection, to the state or political
494 subdivision, not later than fourteen days after the twelve-month
495 anniversary of the most recently filed representation, documentation
496 or updated representation or documentation, that the representation
497 on file with the state or political subdivision is current and accurate.

498 (4) For the purposes of this section, "contract" includes any

499 extension or modification of the contract, and "contractor" includes any
 500 successors or assigns of the contractor. For the purposes of this section,
 501 "contract" does not include a contract where each contractor is (A) a
 502 political subdivision of the state, [including, but not limited to, a
 503 municipality,] (B) a quasi-public agency, as defined in section 1-120,
 504 (C) any other state, as defined in section 1-267, (D) the federal
 505 government, (E) a foreign government, or (F) an agency of a
 506 subdivision, agency, state or government described in subparagraph
 507 (A), (B), (C), (D) or (E) of this subdivision.

508 Sec. 10. Section 4a-60g of the 2012 supplement to the general statutes
 509 is repealed and the following is substituted in lieu thereof (*Effective*
 510 *October 1, 2012*):

511 (a) As used in this section and sections 4a-60h to 4a-60j, inclusive,
 512 the following terms have the following meanings:

513 (1) "Small contractor" means any contractor, subcontractor,
 514 manufacturer, service company or nonprofit corporation (A) that
 515 maintains its principal place of business in the state, and (B) that had
 516 gross revenues not exceeding fifteen million dollars in the most
 517 recently completed fiscal year prior to such application. "Small
 518 contractor" does not include any person who is affiliated with another
 519 person if both persons considered together have a gross revenue
 520 exceeding fifteen million dollars.

521 (2) "State agency" means each state board, commission, department,
 522 office, institution, council or other agency with the power to contract
 523 for goods or services itself or through its head.

524 (3) "Minority business enterprise" means any small contractor (A)
 525 fifty-one per cent or more of the capital stock, if any, or assets of which
 526 are owned by a person or persons (i) who exercise operational
 527 authority over the daily affairs of the enterprise, (ii) who have the
 528 power to direct the management and policies and receive the beneficial
 529 interest of the enterprise, and (iii) who are members of a minority, as

530 such term is defined in subsection (a) of section 32-9n, (B) who is an
531 individual with a disability, or (C) which is a nonprofit corporation in
532 which fifty-one per cent or more of the persons who (i) exercise
533 operational authority over the enterprise, and (ii) have the power to
534 direct the management and policies of the enterprise are members of a
535 minority, as defined in this subsection, or are individuals with a
536 disability.

537 (4) "Affiliated" means the relationship in which a person directly, or
538 indirectly through one or more intermediaries, controls, is controlled
539 by or is under common control with another person.

540 (5) "Control" means the power to direct or cause the direction of the
541 management and policies of any person, whether through the
542 ownership of voting securities, by contract or through any other direct
543 or indirect means. Control shall be presumed to exist if any person,
544 directly or indirectly, owns, controls, holds with the power to vote, or
545 holds proxies representing, twenty per cent or more of any voting
546 securities of another person.

547 (6) "Person" means any individual, corporation, limited liability
548 company, partnership, association, joint stock company, business trust,
549 unincorporated organization or other entity.

550 (7) "Individual with a disability" means an individual (A) having a
551 physical or mental impairment that substantially limits one or more of
552 the major life activities of the individual, which mental impairment
553 may include, but is not limited to, having one or more mental
554 disorders, as defined in the most recent edition of the American
555 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
556 Disorders", or (B) having a record of such an impairment.

557 (8) "Nonprofit corporation" means a nonprofit corporation
558 incorporated pursuant to chapter 602 or any predecessor statutes
559 thereto.

560 (b) It is found and determined that there is a serious need to help

561 small contractors, minority business enterprises, nonprofit
 562 organizations and individuals with disabilities to be considered for
 563 and awarded state contracts for the construction, reconstruction or
 564 rehabilitation of public buildings, the construction and maintenance of
 565 highways and the purchase of goods and services. Accordingly, the
 566 necessity, in the public interest and for the public benefit and good, of
 567 the provisions of this section, sections 4a-60h to 4a-60j, inclusive, and
 568 sections 32-9i to 32-9p, inclusive, is declared as a matter of legislative
 569 determination. Notwithstanding any provisions of the general statutes
 570 to the contrary, and except as set forth herein, the head of each state
 571 agency and each political subdivision of the state [other than a
 572 municipality] shall set aside in each fiscal year, for award to small
 573 contractors, on the basis of competitive bidding procedures, contracts
 574 or portions of contracts for the construction, reconstruction or
 575 rehabilitation of public buildings, the construction and maintenance of
 576 highways and the purchase of goods and services. Eligibility of
 577 nonprofit corporations under the provisions of this section shall be
 578 limited to predevelopment contracts awarded by the Commissioner of
 579 Economic and Community Development for housing projects. The
 580 total value of such contracts or portions thereof to be set aside by each
 581 such agency shall be at least twenty-five per cent of the total value of
 582 all contracts let by the head of such agency in each fiscal year,
 583 provided that neither: (1) A contract that may not be set aside due to a
 584 conflict with a federal law or regulation; or (2) a contract for any goods
 585 or services which have been determined by the Commissioner of
 586 Administrative Services to be not customarily available from or
 587 supplied by small contractors shall be included. Contracts or portions
 588 thereof having a value of not less than twenty-five per cent of the total
 589 value of all contracts or portions thereof to be set aside shall be
 590 reserved for awards to minority business enterprises.

591 (c) The head of any state agency or political subdivision of the state
 592 [other than a municipality] may, in lieu of setting aside any contract or
 593 portions thereof, require any general or trade contractor or any other
 594 entity authorized by such agency to award contracts, to set aside a

595 portion of any contract for subcontractors who are eligible for set-aside
596 contracts under this section. Nothing in this subsection shall be
597 construed to diminish the total value of contracts which are required to
598 be set aside by any state agency or political subdivision of the state
599 [other than a municipality] pursuant to this section.

600 (d) The heads of all state agencies and of each political subdivision
601 of the state [other than a municipality] shall notify the Commissioner
602 of Administrative Services of all contracts to be set aside pursuant to
603 subsection (b) or (c) of this section at the time that bid documents for
604 such contracts are made available to potential contractors.

605 (e) The awarding authority shall require that a contractor or
606 subcontractor awarded a contract or a portion of a contract under this
607 section perform not less than fifteen per cent of the work with the
608 workforces of such contractor or subcontractor and shall require that
609 not less than twenty-five per cent of the work be performed by
610 contractors or subcontractors eligible for awards under this section. A
611 contractor awarded a contract or a portion of a contract under this
612 section shall not subcontract with any person with whom the
613 contractor is affiliated. No person who is affiliated with another person
614 shall be eligible for awards under this section if both affiliated persons
615 considered together would not qualify as a small contractor or a
616 minority business enterprise under subsection (a) of this section. The
617 awarding authority shall require that a contractor awarded a contract
618 pursuant to this section submit, in writing, an explanation of any
619 subcontract to such contract that is entered into with any person that is
620 not eligible for the award of a contract pursuant to this section, prior to
621 the performance of any work pursuant to such subcontract.

622 (f) The awarding authority may require that a contractor or
623 subcontractor awarded a contract or a portion of a contract under this
624 section furnish the following documentation: (1) A copy of the
625 certificate of incorporation, certificate of limited partnership,
626 partnership agreement or other organizational documents of the
627 contractor or subcontractor; (2) a copy of federal income tax returns

628 filed by the contractor or subcontractor for the previous year; and (3)
629 evidence of payment of fair market value for the purchase or lease by
630 the contractor or subcontractor of property or equipment from another
631 contractor who is not eligible for set-aside contracts under this section.

632 (g) The awarding authority or the Commissioner of Administrative
633 Services or the Commission on Human Rights and Opportunities may
634 conduct an audit of the financial, corporate and business records and
635 conduct an investigation of any small contractor or minority business
636 enterprise which applies for or is awarded a set-aside contract for the
637 purpose of determining eligibility for awards or compliance with the
638 requirements established under this section.

639 (h) The provisions of this section shall not apply to any state agency
640 or political subdivision of the state [other than a municipality] for
641 which the total value of all contracts or portions of contracts of the
642 types enumerated in subsection (b) of this section is anticipated to be
643 equal to ten thousand dollars or less.

644 (i) In lieu of a performance, bid, labor and materials or other
645 required bond, a contractor or subcontractor awarded a contract under
646 this section may provide to the awarding authority, and the awarding
647 authority shall accept a letter of credit. Any such letter of credit shall
648 be in an amount equal to ten per cent of the contract for any contract
649 that is less than one hundred thousand dollars and in an amount equal
650 to twenty-five per cent of the contract for any contract that exceeds one
651 hundred thousand dollars.

652 (j) (1) Whenever the awarding authority has reason to believe that
653 any contractor or subcontractor awarded a set-aside contract has
654 wilfully violated any provision of this section, the awarding authority
655 shall send a notice to such contractor or subcontractor by certified
656 mail, return receipt requested. Such notice shall include: (A) A
657 reference to the provision alleged to be violated; (B) a short and plain
658 statement of the matter asserted; (C) the maximum civil penalty that
659 may be imposed for such violation; and (D) the time and place for the

660 hearing. Such hearing shall be fixed for a date not earlier than fourteen
661 days after the notice is mailed. The awarding authority shall send a
662 copy of such notice to the Commission on Human Rights and
663 Opportunities.

664 (2) The awarding authority shall hold a hearing on the violation
665 asserted unless such contractor or subcontractor fails to appear. The
666 hearing shall be held in accordance with the provisions of chapter 54.
667 If, after the hearing, the awarding authority finds that the contractor or
668 subcontractor has wilfully violated any provision of this section, the
669 awarding authority shall suspend all set-aside contract payments to
670 the contractor or subcontractor and may, in its discretion, order that a
671 civil penalty not exceeding ten thousand dollars per violation be
672 imposed on the contractor or subcontractor. If such contractor or
673 subcontractor fails to appear for the hearing, the awarding authority
674 may, as the facts require, order that a civil penalty not exceeding ten
675 thousand dollars per violation be imposed on the contractor or
676 subcontractor. The awarding authority shall send a copy of any order
677 issued pursuant to this subsection by certified mail, return receipt
678 requested, to the contractor or subcontractor named in such order. The
679 awarding authority may cause proceedings to be instituted by the
680 Attorney General for the enforcement of any order imposing a civil
681 penalty issued under this subsection.

682 (k) [On or before January 1, 2000, the] The Commissioner of
683 Administrative Services shall establish a process for certification of
684 small contractors and minority business enterprises as eligible for
685 set-aside contracts. Each certification shall be valid for a period not to
686 exceed two years. Any paper application for certification shall be no
687 longer than six pages. The Department of Administrative Services shall
688 maintain on its web site an updated directory of small contractors and
689 minority business enterprises certified under this section.

690 (l) On or before August 30, 2007, and annually thereafter, each state
691 agency and each political subdivision of the state [other than a
692 municipality] setting aside contracts or portions of contracts shall

693 prepare a report establishing small and minority business set-aside
 694 program goals for the twelve-month period beginning July first in the
 695 same year. Each such report shall be submitted to the Commissioner of
 696 Administrative Services, the Commission on Human Rights and
 697 Opportunities and the [cochairpersons] chairpersons and ranking
 698 members of the joint standing committees of the General Assembly
 699 having cognizance of matters relating to planning and development
 700 and government administration and elections.

701 (m) On or before November 1, 1995, and quarterly thereafter, each
 702 state agency and each political subdivision of the state [other than a
 703 municipality] setting aside contracts or portions of contracts shall
 704 prepare a status report on the implementation and results of its small
 705 business and minority business enterprise set-aside program goals
 706 during the three-month period ending one month before the due date
 707 for the report. Each report shall be submitted to the Commissioner of
 708 Administrative Services and the Commission on Human Rights and
 709 Opportunities. Any state agency or political subdivision of the state [,
 710 other than a municipality,] that achieves less than fifty per cent of its
 711 small contractor and minority business enterprise set-aside program
 712 goals by the end of the second reporting period in any twelve-month
 713 period beginning on July first shall provide a written explanation to
 714 the Commissioner of Administrative Services and the Commission on
 715 Human Rights and Opportunities detailing how the agency or political
 716 subdivision will achieve its goals in the final reporting period. The
 717 Commission on Human Rights and Opportunities shall: (1) Monitor
 718 the achievement of the annual goals established by each state agency
 719 and political subdivision of the state; [other than a municipality;] and
 720 (2) prepare a quarterly report concerning such goal achievement. The
 721 report shall be submitted to each state agency that submitted a report,
 722 the Commissioner of Economic and Community Development, the
 723 Commissioner of Administrative Services and the cochairpersons and
 724 ranking members of the joint standing committees of the General
 725 Assembly having cognizance of matters relating to planning and
 726 development and government administration and elections. Failure by

727 any state agency or political subdivision of the state [other than a
728 municipality] to submit any reports required by this section shall be a
729 violation of section 46a-77.

730 (n) Nothing in this section shall be construed to apply to the four
731 janitorial contracts awarded pursuant to subsections (b) to (e),
732 inclusive, of section 4a-82.

733 Sec. 11. Section 4a-61 of the general statutes is repealed and the
734 following is substituted in lieu thereof (*Effective October 1, 2012*):

735 The Commissioner of Administrative Services, with the advice of
736 the Commissioner of Economic and Community Development, shall
737 adopt regulations, in accordance with chapter 54, establishing
738 procedures for the award of contracts concerning minority business
739 enterprises by the state or any political subdivision of the state, [other
740 than a municipality.]

741 Sec. 12. Subsection (a) of section 4a-62 of the 2012 supplement to the
742 general statutes is repealed and the following is substituted in lieu
743 thereof (*Effective October 1, 2012*):

744 (a) There is established a Minority Business Enterprise Review
745 Committee. The committee shall consist of two members of the House
746 of Representatives appointed by the speaker of the House, two
747 members of the House appointed by the minority leader of the House,
748 two members of the Senate appointed by the president pro tempore of
749 the Senate, and two members of the Senate appointed by the minority
750 leader of the Senate. The committee shall conduct an ongoing study of
751 contract awards, loans and bonds made or guaranteed by the state or
752 any political subdivision of the state [other than a municipality] for the
753 purpose of determining the extent of compliance with the provisions
754 of the general statutes concerning contract awards, loans and bonds for
755 minority business enterprises, including the set-aside program for such
756 business enterprises.

757 Sec. 13. Section 46a-68b of the general statutes is repealed and the

758 following is substituted in lieu thereof (*Effective October 1, 2012*):

759 As used in this section and sections 4a-60, as amended by this act,
 760 4a-60a, as amended by this act, 4a-60g, as amended by this act, 4a-62,
 761 as amended by this act, 46a-56 and 46a-68c to 46a-68k, inclusive:
 762 "Public works contract" means any agreement between any individual,
 763 firm or corporation and the state or any political subdivision of the
 764 state [other than a municipality] for construction, rehabilitation,
 765 conversion, extension, demolition or repair of a public building,
 766 highway or other changes or improvements in real property, or which
 767 is financed in whole or in part by the state, including, but not limited
 768 to, matching expenditures, grants, loans, insurance or guarantees.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2012</i>	4-61dd(d)(2)
Sec. 2	<i>October 1, 2012</i>	46a-51(4)
Sec. 3	<i>October 1, 2012</i>	46a-52
Sec. 4	<i>October 1, 2012</i>	46a-58
Sec. 5	<i>October 1, 2012</i>	46a-89
Sec. 6	<i>October 1, 2012</i>	46a-68d
Sec. 7	<i>October 1, 2012</i>	4a-60
Sec. 8	<i>October 1, 2012</i>	New section
Sec. 9	<i>October 1, 2012</i>	4a-60a(a) and (b)
Sec. 10	<i>October 1, 2012</i>	4a-60g
Sec. 11	<i>October 1, 2012</i>	4a-61
Sec. 12	<i>October 1, 2012</i>	4a-62(a)
Sec. 13	<i>October 1, 2012</i>	46a-68b

JUD ***Joint Favorable***